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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,075	10/20/2003	Toshifumi Masaki	1232-5178	4876

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EXAMINER	
HOEKSTRA, JEFFREY GERBEN	

ART UNIT	PAPER NUMBER
3736	

NOTIFICATION DATE	DELIVERY MODE
10/01/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/690,075	Applicant(s) MASAKI, TOSHIFUMI	
	Examiner Jeffrey G. Hoekstra	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/19/2007 has been entered.

Notice of Amendment

2. In response to the amendment filed on 07/19/2007, amended claim(s) 1, 3, and 4, canceled claim(s) 2, and withdrawn claim(s) 5-8 is/are acknowledged. The current rejections of the claim(s) 1-4 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

Claim Objections

3. The Examiner notes that the claims are generally narrative. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Appropriate correction is respectfully requested in the interest of claim clarity.

For example: claim 1 line 2 positively recites "for projecting a light flux for alignment to a cornea of an eye" and the Examiner notes should apparently read "for projecting a light flux for alignment of a cornea of an eye", "for projecting a light flux for aligning a cornea of an eye", or the like.

Moreover, claim 1 lines 5-7 positively recite "image processing means for picking up a plural specific areas directed to light of the light flux for alignment which is reflected by the eye to be examined, within an image signal obtained by the sensor" which appears replete with grammatical and/or replete with idiomatic errors and/or appears to render the claim indefinite.

4. Claim 1 is objected to because of the following informalities: it appears line 4 should read "a sensor for capturing an image of the eye to be examined;". Appropriate correction is required.

5. Claim 1 is objected to because of the following informalities which appear to render the claim indefinite: the positive recitation of "a light flux" in line 13 appears to duplicate the "a light flux" in line 2 and/or the "an alignment light source" in line 2 appears to duplicate the structure of the "an intraocular pressure measurement light source" in line 13. Appropriate correction is required.

6. Claim 4 is objected to because of the following informalities: it appears line 4 should read "is of a high reliability level.". Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 3, and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3736

9. Claims 1, 3, and 4 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.

10. The omitted structural cooperative relationships are: the structural relationship between the "image processing means", the "calculation means", the "intraocular pressure calculation means", and the "reliability determination means". It appears, as disclosed, that the above listed structural limitations are *duplicating* the structure of the CPU (31).

11. Moreover, as claimed, the structural cooperative relationships between the above listed structural limitations are incomplete wherein such omission amounts to a gap between the necessary structural connections, for example: it is unclear how the "calculation means calculates a reference value on the basis of the processed image signals obtained on the plural specific areas" when the "image processing means" is a separate structure "for picking up a plural specific areas" and no communication exists between the two structures.

12. For the purposes of examination on the merits, the Examiner notes that the indefinite limitations (the "image processing means", the "calculation means", the "intraocular pressure calculation means", and the "reliability determination means") appearing to duplicate the structure of the CPU (31) as disclosed will be treated as a CPU with the functions as claimed of the "image processing means", the "calculation

Art Unit: 3736

means", the "intraocular pressure calculation means", and the "reliability determination means".

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Minemoto et al (JP 2002172090 A2) (IDS NPL: English Language Abstract of JP 2002-172090).

15. Minemoto et al discloses a non-contact tonometer, comprising:

- an alignment light source (the source of element 30) for projecting an alignment light flux for aligning the non-contact tonometer with respect to a cornea of an eye to be examined;
- a sensor (60) for capturing an image of the eye to be examined;
- cornea deformation means (lines 5-6) capable of pressurizing air in a cylinder and deforming the cornea of the eye to be examined by blowing the pressurized air onto the cornea of the eye to be examined;
- an intraocular pressure measurement light source (the source of element 50) for projecting a light flux for measurement to the eye to be examined;
- intraocular pressure measurement light receiving means (the detector of element 50) for detecting a reflected light quantity of said light flux; and

Art Unit: 3736

- a control circuit (102) operably connected with and for controlling the alignment light source, the sensor, the intraocular pressure measurement light source, and the intraocular pressure measurement light receiving means, and capable of:
 - processing the image signals obtained by the sensor for determining the alignment of the non-contact tonometer with respect to a cornea of an eye to be examined,
 - calculating a reference value based on the processed image signals, said reference value is capable of being changed based on a peak value of the processed image signal,
 - calculating an intraocular pressure based on the output signals of the intraocular pressure measurement light receiving means and the cornea deformation means,
 - determining and providing a reliability level of the calculated intraocular pressure based on the calculated intraocular pressure and the calculated reference value, and
 - obtaining additional data from said intraocular pressure measurement light receiving means when the reliability level is determined to be at a highly reliable level.

Response to Arguments

16. Applicant's arguments with respect to claims 1, 3, and 4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Art Unit: 3736


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571) 272-7232. The examiner can normally be reached on Monday through Friday 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.H./

Jeff Hoekstra
Examiner, Art Unit 3736


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